

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-3686	
Appeal No(s)	1432486	PAF
	1432488	OWF
	1441997	MED
AG No.	5071189129	
Hearing Request Date:	08/20/2008	
Hearing Decision Date:	03/13/2009 / SBH	
Appeal Request Date:	03/24/2009	
Agency:	HAMILTON CDJFS	

Administrative Appeal Decision

The Appellant is appealing an August, 2008, agency decision to impose a third level sanction against his Ohio Works First, Food Assistance, and Medicaid benefits due to his failure to comply with an April Self Sufficiency contract which required him to attend a combination of training and Work Experience activities for 25 hours per week in June. The hearing officer overruled the appeal, finding that the appellant's failure to attend in June was not excused by the agency's approval of an alternate activity beginning July because there was no evidence that his Self Sufficiency contract was amended for June.

In his request for administrative appeal the appellant requests that the hearing be reconvened to allow him an opportunity to cross examine the agency caseworker he alleged approved the alternate activity for June. After conducting the hearing the fourth time it was scheduled, the hearing officer continued it a fifth time for the caseworker to be present, but the appellant failed to appear for that hearing, because he alleges that he was incarcerated. But given this long history of postponements in the case, and the fact that it has now pended for nearly 8 months, we do not see a basis in state hearing rules to order such relief.

Otherwise, our review of the hearing decision indicates that the hearing officer accurately applied the basic Ohio Works First requirement that a Self Sufficiency contract be developed in order to "achieve the goal of self sufficiency and personal responsibility through unsubsidized employment within the time limit for participating in

OWF established by section 5107.18 of the Revised Code... The plan ... shall include assignments to one or more work activities or alternative activities. The CDJFS shall include the plan in the self-sufficiency contract ... (which must be executed) not later than thirty days after applying for or undergoing a redetermination of eligibility for OWF.¹ Further, "If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency ...a CDJFS shall sanction the assistance group as follows:

- (1) For a first failure or refusal, the CDJFS shall deny or terminate the assistance group's eligibility to participate in OWF for one payment month;
- (2) For a second failure or refusal, the CDJFS shall deny or terminate the assistance group's eligibility to participate in OWF for three payment months;
- (3) For a third or subsequent failure or refusal, the CDJFS shall deny or terminate the assistance group's eligibility to participate in OWF for six payment months.²

...Missed hours of participation in a month may be made up by a work eligible individual within the same month at the discretion of the CDJFS. Any missed hours of participation that are not made up by an individual may be considered good cause if they meet one of the good cause reasons set forth in paragraph (H)(3) of this rule... For each failure, refusal or absence, the CDJFS shall determine if good cause exists... Good cause is limited to the following:

- (a) Illness of the work eligible individual or of another family member, if care by the work eligible individual was necessary;
- (b) For either the work eligible individual or a family member, an appointment necessary for medical, dental, or vision care;
- (c) An appointment for a work eligible individual for a job interview including any subsequent interviews and/or testing requirements;
- (d) Court ordered appearances;
- (e) Appointment with another social service agency or program;
- (f) Death in the family, with the length of absence to be determined by the CDJFS;
- (g) A school, place of work or worksite is closed due to weather or other emergency;
- (h) Lack of child care;
- (i) A failure of the CDJFS to provide supportive services;
- (j) A failure of the CDJFS to provide the individual with all information necessary about the assignment;

1 OAC 5101:1-3-12(C),(D)

2 OAC 5101:1-3-15(B)

- (k) Circumstances involving domestic violence which make it difficult for the individual to comply in full with a provision of the self sufficiency contract, in accordance with rule 5101:1-3-20 of the Administrative Code; or
- (l) Other circumstances determined on a case by case basis by the CDJFS that are considered a fair and reasonable justification for the work eligible individual's failure or refusal to comply in full with a provision of the self sufficiency contract.³

When all members of the Ohio Works First assistance group also received food stamps, the failure to comply with the self-sufficiency contract without good cause also results in a food stamp sanction for the Appellant and a reduction in the food stamp benefits for the assistance group.⁴ However, the “county agency must stop the food stamp sanction or disqualification when it becomes aware that the person has become ineligible for OWF for some other reason.”⁵

In addition, an Ohio Works First recipient who is sanctioned for a third or subsequent “failure or refusal, without good cause, to comply in full with a provision of a self sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medical assistance unless the adult is otherwise eligible for medical assistance...”⁶ Further, the Medicaid sanction in this type of case does not apply if “the adult is otherwise eligible for medical assistance...”⁷ In fact, the agency is required to review all potential Medicaid eligibility for any assistance group member before terminating the member’s current Medicaid coverage.⁸

In this case, the appellant essentially contends that he did not violate the terms of the contract that was in effect in June because the caseworker advised him he could substitute the alternate activity beginning July. Unfortunately, he was still responsible for the contract terms until it was amended. On the other hand, the agency was not allowed to impose the Medicaid sanction until determining that the appellant was not

3 OAC 5101:1-3-12(H)

4 OAC 5101:4-3-09(J),(K),(S)

5 OAC 5101:4-3-09(F)

6 ORC 5107.16(E)

7 ORC 5107.16(E)

8 OAC 5101:1-38-01.1

otherwise eligible. Although the agency indicates it conducted the pre-termination review, the hearing record indicates that in January, 2008, the appellant was found exempt from a Food Assistance work requirement on the basis of disability, and that the appellant has a Social Security disability application pending. In that event, he should also have a Medicaid application pending on the basis of disability, which would prevent imposition of the Medicaid sanction.

DECISION

We therefore ORDER that the hearing decision is AFFIRMED regarding the Ohio Works First and Food Assistance appeals; and REVERSED regarding the Medicaid appeal; and an order of COMPLIANCE issue to the agency to rescind the Medicaid sanction, restore lost benefits as appropriate, and redetermine whether the Medicaid sanction should be suspended because of the pendency of a Medicaid disability application by the appellant.

The agency is directed to send the appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401 or other appropriate state form. The agency is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The appellant retains all state hearing rights regarding any future agency determination.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Legal Counsel

Date of Issuance: April 8, 2009

Notice to Appellant

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail the original notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services**

**30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file a copy of the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc:

Director, HAMILTON CDJFS
FOGLEA, HARTS02, Bureau of State Hearings